IN THE HIGH COURT OF DELHI AT NEW DELHI

Crl.M.C. No.110/2005

M/s Intercrop Industries Ltd. & Anr. ..... Petitioner
! through: Mr. V.Shrivastav, Advocate

VERSUS

$ State of Delhi & Ors. ..... Respondents
^ through: Ms. Rachitta Priyanka for
Mr. Rajeeve Mehra, Advocate for
State

% **D**ATE OF DECISION: 09-08-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether judgment should be reported in Digest?

: **PRADEEP NANDRAJOG, J.**(Oral)

1. If for no other reason, instant petition must succeed and as a result the order passed by the learned Metropolitan Magistrate whereunder petitioner has been summoned to face trial in a complaint lodged by the Registrar of Companies under Section 217(5) read with Section 217(3) of the Companies Act 1956 has to be quashed.

2. My reason is simple.

3. Inter alia, in the complaint reference has been made to 6 annexures. The reference to the 6 annexures is not an ideal formality for the reason substantive pleadings in the complaint merely touch upon the annexure and rely thereupon to bring out the true purport, content and meaning of the connected pleadings in the complaint.

4. For example, with reference to an allegation that the company did not give fullest information in the balance sheet, save and except making an averment that full and complete details were not furnished in the balance sheet, to make good the point, it was pleaded that photocopy of the balance sheet with remarks contained thereon is annexed as Annexure-3 to the complaint.

5. I may additionally note that in para 4 of the complaint it has been stated that allegation was on the basis of an inspection report where certain contraventions were revealed. What those contraventions are have not been amplified in para 4. To make the matter worse, the stated inspection report has not even been annexed with the complaint.

6. What has pained this Court is that the summoning order dated 18.10.2001 is a cyclostyled proforma. The blank

spaces have been filled up by hand. It reveals a mechanical

application of mind by the learned ACMM who probably had cyclostyled proforma summoning orders which were being used without even bothering to check whether the complaint filed was having necessary averments and whether documents annexed to the complaint were or were not filed along with the complaint. Use of cyclostyled format summoning orders reveals a casual approach of the concerned ACMM. It reveals a total non application of mind.

7. Petition is allowed.

8. Summoning order dated 18.10.2001 is quashed.

9. LCR may be returned.

August 09, 2007 **PRADEEP NANDRAJOG, J.**
dk